



# Air Resources Board



Linda S. Adams  
Secretary for  
Environmental Protection

Mary D. Nichols, Chairman  
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Sacramento, California 95812 • [www.arb.ca.gov](http://www.arb.ca.gov)

Arnold Schwarzenegger  
Governor

September 17, 2009

Administrator Lisa P. Jackson  
United States Environmental Protection Agency  
Headquarters Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1101A  
Washington, D.C. 20460

RE: REQUEST FOR WAIVER ACTION PURSUANT TO CLEAN AIR ACT  
SECTION 209(b) FOR AMENDMENTS TO CALIFORNIA'S ZERO EMISSION  
VEHICLE REGULATIONS

Dear Administrator Jackson:

I write to request the United States Environmental Protection Agency (EPA) waive federal preemption for California's amended zero emission vehicle (ZEV) standards and certification and test procedures pursuant to Clean Air Act (CAA) section 209(b).

The California Air Resources Board (CARB or Board) amended its ZEV standards and certification and test procedures in December 2008. CARB requests the Administrator treat the amended ZEV requirements as within the scope of previously granted waivers for the ZEV program, which specifically addressed ZEV program requirements through the 2011 model year. The amendments as they apply to 2008 and later model year vehicles do not undermine CARB's previous protectiveness findings and cannot be found to be inconsistent with CAA section 202(a). To the extent that the Administrator cannot find that the amendments fall within the scope of previously granted waivers, CARB alternatively requests that the Administrator grant a new waiver of preemption. CARB expressly found that the program's emission standards, in the aggregate, are at least as protective of public health and welfare as applicable federal standards for passenger cars and light-duty trucks and that no basis exists for denying a waiver under the three criteria that the Administrator must consider under CAA section 209(b).

Attached for your review is an analysis setting forth California's basis for the waiver request. The analysis sets forth a summary of the regulatory actions, a review of the criteria governing EPA's evaluation of a California waiver request, and the legal arguments that support and compel EPA to grant California's request. The analysis is further supported by enclosures, included in CD-ROM format for your convenience.

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.*

California Environmental Protection Agency

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If you need additional technical information relating to the ZEV standards and certification and test procedures on these actions, please contact Ms. Analisa Bevan, Chief of the Sustainable Transportation Technology Branch of the Mobile Source Control Division, at (916) 323-8966 or [abevan@arb.ca.gov](mailto:abevan@arb.ca.gov). You may address legal questions to Ms. Diane Moritz Johnston, Senior Staff Counsel, at (916) 323-9609 or [djohnsto@arb.ca.gov](mailto:djohnsto@arb.ca.gov) or to Mr. Michael Terris, Senior Staff Counsel, at (916) 445-9815 or [mterris@arb.ca.gov](mailto:mterris@arb.ca.gov).

Sincerely,



James N. Goldstene  
Executive Officer

Attachment

Enclosures

cc: Mr. David Dickinson (w/ attachment; w/ enclosure)  
Compliance and Innovative Strategies Division  
United States Environmental Protection Agency  
1310 L Street, N.W., Room 644  
Washington, D.C. 20005

Ms. Analisa Bevan, Chief (w/ attachment; w/o enclosure)  
Sustainable Transportation Technology Branch  
Mobile Source Control Division

Ms. Diane Moritz Johnston (w/ attachment; w/ enclosure)  
Senior Staff Counsel  
Office of Legal Affairs

Mr. Michael Terris (w/ attachment; w/enclosure)  
Senior Staff Counsel  
Office of Legal Affairs